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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,767	09/01/2000	Scott T. Allan	A-68678/MAK/LM	6140

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EXAMINER
OUELLETTE, JONATHAN P

ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 08/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/653,767	ALLAN ET AL.	
	Examiner	Art Unit	
	Jonathan Ouellette	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 September 2000* .

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-73* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *15-25 and 67* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention (Claims 15-25 and 67):

(a) Wherein the step of prioritizing multiple competing ads comprises setting the priority of an ad for display when the transaction meets predetermined criteria (a "specific ad") higher than the priority of an ad for display when no specific ad is available (Claims 15 and 67).

(b) Wherein the step of prioritizing multiple competing ads comprises setting the priority of an ad that is for display without regard to specifics of the transaction and that originated in an ad-management service higher than the priority of an ad that is for display without regard to specifics of the transaction but that originated in a merchant (Claim: 16)

(c) Wherein the step of prioritizing multiple competing ads comprises setting the priority of an ad having a duration of n time units higher than the priority of an ad having a duration of less than n time units (Claim: 17).

(d) Wherein the step of prioritizing multiple competing ads comprises setting the priority of an interactive ad higher than the priority of a non-interactive ad (Claim: 18).

(e) Wherein the step of prioritizing multiple competing ads comprises setting the priority of an ad relating to an item identified for purchase higher than the priority of an ad related not to an item identified for purchase but to the POS location (Claim: 19).

(f) Wherein the step of prioritizing multiple competing ads comprises setting the priority of an ad relating to the POS location higher than an ad relating not to the POS location but to the time of transaction (Claim: 20).

(g) Wherein the step of prioritizing multiple competing ads comprises setting the priority of an ad relating to the time of a transaction higher than the priority of an ad relating not to the time of a transaction but to the price of an item identified for purchase (Claim 21).

(h) Wherein the step of prioritizing multiple competing ads comprises setting the priority of an ad that has n times been determined as the ad for display higher than an ad that has been determined as the ad for display more than n times (Claim 22).

(i) Wherein the step of prioritizing multiple competing ads comprises adjusting the priority of an ad, the adjustment based on advertisements already displayed in the transaction (Claim: 23).

(j) Wherein the step of prioritizing multiple competing ads comprises adjusting the priority of an ad for display when the transaction meets predetermined criteria, that ad having already been displayed, such that that ad does not display again in the transaction (Claim 24).

(k) Wherein the step of prioritizing multiple competing ads comprises randomly setting the priority of an ad, with the priority equal to that of another ad, higher than the priority of the other ad (Claim: 25).

2. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claims 1-14, 26-66, and 68-73 are considered generic.

3. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable

thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

4. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).
5. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (703) 605-0662. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.
8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5484.

JO
August 6, 2003

JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600